



Public Notice

U S Army Corps
of Engineers
Huntington District

In reply refer to Public Notice No. 200501115

Issuance Date:

October 4, 2005

Stream: Blue Branch

Closing Date:

November 3, 2005

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps' request to the West Virginia Department of Environmental Protection (WVDEP) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Green Valley Coal Company
Post Office Box 190
Leivasy, West Virginia 26601

LOCATION: The proposed project would be located approximately 0.5 miles southwest of Carl in the Kentucky District of Nicholas County, West Virginia as depicted on the attached location map. Blue Branch is a tributary of Hominy Creek, which ultimately flows into the Gauley River, a navigable (Section 10) waterway.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place dredged and fill material into 2.44 acres of waters of the United States, including 60 linear feet (0.0092 acre) of intermittent stream, 7,962 linear feet (1.46 acres) of perennial streams, 0.826 acre of forested wetlands, 0.140 acre of shrub/scrub wetlands in conjunction with the construction, operation and reclamation of the Blue Branch Refuse Area. This proposed activity would be an expansion of an existing side hill fill that is nearing its maximum storage capacity. This existing side hill fill would be converted to a valley fill as a result of the proposed activity. Mandatory drainage control for the impact area would be provided by the construction of two drainage control ponds (No. 1 and 2). Prior to placing dredged and fill material into waters of the U.S., the applicant proposes to relocate Blue Branch along the western edge of the proposed valley fill. A road would be constructed to provide a route to haul coal processing material to the toe of the valley fill area. A diversion ditch would be constructed to catch runoff from the undisturbed watershed on the eastern side of Blue Branch. Approximately 14.5 million cubic yards of durable non-toxic, non-acid producing rock and coal processed materials would be generated as a result of the proposed activity. Nearly 2,155 cubic yards of this material would be discharged within the USACE regulatory jurisdiction. According to the applicant, the purpose of the project is to create additional storage area to accommodate the disposal of material generated by the processing of coal mined on its adjacent properties. The expansion of the existing facility would allow the continued operation of the Green Valley Preparation Plant and associated underground mines. The existing facility has an alkaline amendment plan and would continue through the life of the proposed expansion.

Upon completion and certification of the drainage control ponds by a registered engineer, a durable rock underdrain would be installed under the footprint of proposed Valley Fill prior to the disposal of coal processing materials. The underdrain would be constructed so that its upstream end is always at least 100 feet ahead of valley fill construction. The valley toe area would be constructed using either coarse coal processing material or suitable fill material from the road construction. Secondary drains to collect seeps or springs would be installed as needed in advance of coal processing material placement. Coal processing materials would be placed in two-foot thick lifts. As the fill progresses and more room becomes available on the top of the fill surface, cells for fine coal processing materials would be established. The applicant also has an option to continue its current combined refuse disposal plan. Construction of the valley fill would continue in this fashion with the main underdrain being constructed at least one hundred feet ahead of the rising fill. During construction, the surface of the fill would be sloped from the east side towards the west side at a 2% to 5% slope. The fill would not be tied into the ground on the western side until each subsequent lift is placed, creating a four feet minimum depth channel along the existing ground to convey surface runoff from the fill area to the drainage control ponds. The fill would be constructed and maintained so that surface runoff would not be impounded.

The Sewell bench underdrain would be extended along the base of the highwall on the eastern side of the disposal area where there is a potential for seepage from the coal seam. It would be connected to the main underdrain or extended independently to exit the front outslope of the refuse fill. Construction of the valley fill would continue in this manner until the final design configuration is reached. The permanent drainage channels would be installed progressively as the fill is constructed. Earthen material would be utilized to provide a four-foot cover over the coal processing materials fill. The area would then be seeded and mulched in accordance with the WVDEP approved reclamation plan.

Construction of the proposed valley fill would result in the discharge of nearly 2,155 cubic yards of fill material into approximately 6,848 linear feet of perennial stream channels, 60 linear feet of intermittent stream channels and 0.568 acre of forested wetlands and 0.140 acre of shrub/scrub wetlands. Approximately 0.064 acre of on-stream impoundments existing on the pre-SMCRA Sewell mine bench would be intercepted by the proposed Blue Branch relocation activity. The proposed valley fill would affect a watershed of 554.83 acres of which 350.35 acres would be diverted around the fill via the relocated channel of Blue Branch. Construction of the two drainage control ponds would result in the discharge of approximately 54.6 cubic yards of dredged and/or fill material into 1,114 linear feet of perennial streams (Blue Branch and Splits 1, 2 and 3 of Blue Branch) and 0.258 acre of forested wetlands. Tables A-1 (Stream Impacts) and A-2 (Wetland Impacts) of this public notice detail the impacts to waters of the U.S. as a result of the discharge of dredged and fill material.

The WVDEP approved the applicant's Surface Mining Permit No. O-10-83, Incidental Boundary Revision 9 and WVNPDES Permit No. WV0060097, Modification #4 applications pursuant to the Surface Mining Control and Reclamation Act and Section 402 of the CWA on October 17, 2003 and February 2, 2004 respectively. The anticipated life of the project would be 120 months. Construction details can be found in Section V of the applicant's Surface Mining Application on file at the WVDEP. Plans for the proposed project are attached to this public notice.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

MITIGATION PLAN: The applicant has submitted a conceptual compensatory mitigation plan (CMP) to compensate for permanent and temporary impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers. The applicant proposes to enhance habitat in approximately 8,000 linear feet (6.946 acres) of Hominy Creek, create 4,201 linear feet (1.278 acres) of perennial stream via the proposed Blue Branch relocated channel, and create 0.250 acres of emergent wetland, 2.698 acres of forested wetland, and 1.038 acres of scrub-shrub wetland in the Brushy Meadow Creek watershed.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the SHPO for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.


ENDANGERED/THREATENED SPECIES REVIEW: The Huntington District has consulted the most recently available information and has determined two federally listed endangered species, the Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) may occur within the proposed project area. The proposed project would result in disturbances to nearly 252 acres of land which could provide potential Indiana bat summer habitat (the majority of the 252 acres has been previously disturbed – the last WVDEP inspection estimated that 185 acres have been disturbed of which 93 acres have been reclaimed). A bat mist net survey was completed for the proposed project on June 28-29, 2005. A total of 2 bats, representing 2 species, were captured. Species captured included a Big Brown bat (*Eptesicus fuscus*, n=1) and a Northern long-eared bat (*Myotis septentrionalis*, n=1). No endangered bats were captured during the survey efforts. The proposed project area was investigated for open, abandoned mine portals or other features that could provide summer and winter habitat for the Virginia big-eared bat or hibernaculum for the Indiana bat. The investigation did not locate in any of these features. The proposed project is not likely to adversely affect endangered or threatened species or their critical habitat. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area that would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant

to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mrs. Teresa Spagna, Project Manager, South Regulatory Section, CELRH-OR-FS, U. S. Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Mrs. Teresa Spagna of the South Regulatory Section at 304-399-5710.


Ginger Mullins, Chief
Regulatory Branch

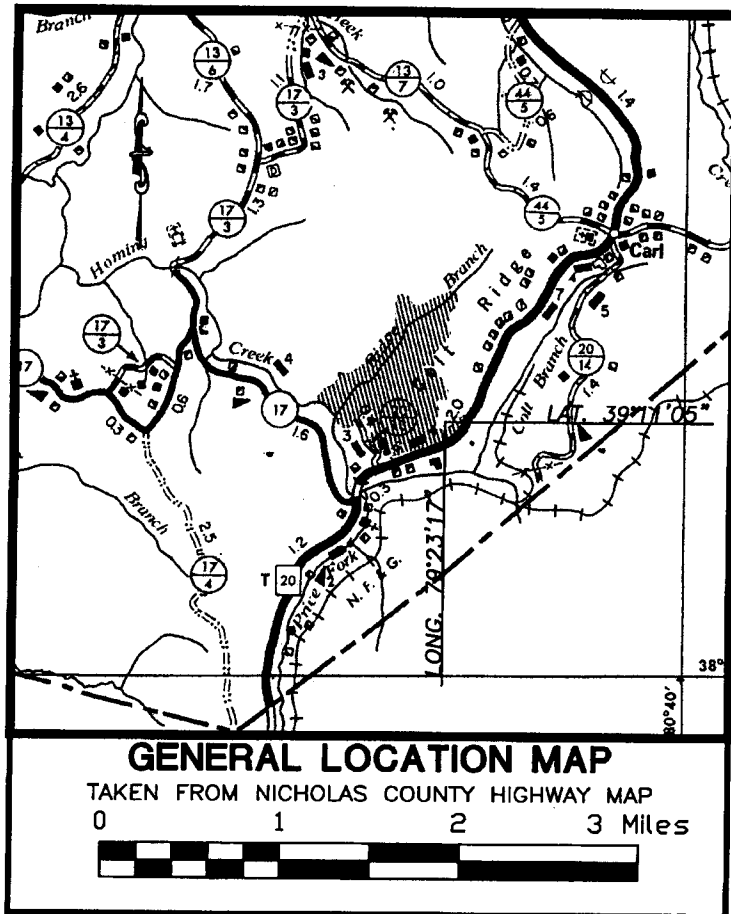
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Table A-1
Proposed Stream Impacts

Mining Activity	Stream Location		Linear Feet	Acres	Stream Classification
Valley Fill 1	Blue Branch	Main Channel	3776	0.9583	Perennial
Valley Fill 1	1st left unnamed tributary of Blue Branch	Channel A	267	0.0258	Perennial
Valley Fill 1	2nd left unnamed tributary of Blue Branch	Channel B	172	0.0181	Perennial
Valley Fill 1	Blue Branch	Channel C	871	0.0653	Perennial
Valley Fill 1	1st right unnamed tributary of 1st right unnamed tributary of Blue branch	Channel D	400	0.0319	Perennial
Valley Fill 1	1st right unnamed tributary of Blue Branch	Channel E	630	0.0908	Perennial
Valley Fill 1	1st right unnamed tributary of Blue Branch		60	0.0092	Intermittent
Valley Fill 1	Unnamed tributary of Blue Branch	Channel G	175	0.0135	Perennial
Valley Fill 1	Blue Branch	SPLIT 3	40	0.0154	Perennial
Valley Fill 1	Blue Branch	SPLIT 4	58	0.0043	Perennial
Valley Fill 1	Blue Branch	SPLIT 5	219	0.0132	Perennial
Valley Fill 1	1st left unnamed tributary of 1st right unnamed tributary	SPLIT 6	40	0.0046	Perennial
Valley Fill 1	1st right unnamed tributary	SPLIT 7	83	0.0076	Perennial
Valley Fill 1	Blue Branch	SPLIT 8	54	0.0024	Perennial
Valley Fill 1	Blue Branch	SPLIT 9	63	0.0027	Perennial
Ponds 1 & 2 Embankment	Blue Branch	Main Channel	707	0.1856	Perennial
Ponds 1 & 2 Embankment	Blue Branch	SPLIT 1	225	0.0143	Perennial
Ponds 1 & 2 Embankment	Blue Branch	SPLIT 2	106	0.0074	Perennial
Ponds 1 & 2 Embankment	Blue Branch	SPLIT 3	76	0.0032	Perennial
Total			8022	1.4737	

TABLE A-1
PROPOSED WETLAND IMPACTS

PROPOSED MINING ACTIVITY	WETLAND ID	TYPE	IMPACTED WETLANDS	
			(sq.ft.)	(acres)
Valley Fill 1	2	Scrub Shrub	1,789.6	0.041
Valley Fill 1	2B	Scrub Shrub	1,800.9	0.041
Valley Fill 1	3	Forested	4,200.1	0.096
Valley Fill 1	4	Forested	2,088.0	0.048
Sediment Pond 2	5A	Forested	9,219.0	0.212
Sediment Pond 2	5B	Forested	509.3	0.012
Sediment Pond 2	5C	Forested	1,474.0	0.034
Valley Fill 1	6	Scrub Shrub	578.7	0.013
Valley Fill 1	7	Scrub Shrub	1,931.7	0.044
Valley Fill 1	8	Forested	1,242.5	0.029
Valley Fill 1	9	Forested	987.9	0.023
Valley Fill 1	10	Forested	1,287.8	0.030
Valley Fill 1	11	Forested	10,507.7	0.241
Valley Fill 1	12	Forested	677.0	0.016
Valley Fill 1	13	Forested	1,381.7	0.032
Valley Fill 1	14	Forested	385.1	0.009
Valley Fill 1	15A	Forested	511.7	0.012
Valley Fill 1	15B	Forested	99.2	0.002
Valley Fill 1	15C	Forested	166.6	0.004
Valley Fill 1	15D	Forested	277.3	0.006
Valley Fill 1	16	Forested	974.9	0.022
	Sub-total	Forested	35,989.8	0.826
	Sub-total	Scrub Shrub	6,100.9	0.140
Total			42,090.7	0.966



KENTUCKY DISTRICT OF NICHOLAS COUNTY

DRAINAGE AND PROPOSAL MAP

NPDES WV0060097 NPM 04 EXHIBIT I-VI-A
AND GPP MAP (ATTACHMENT 6-1, 18-1)

0-10-83 IBR NO. 9

COMPANY NAME: **GREEN VALLEY COAL COMPANY**

ADDRESS: PO BOX 190
LEIVASY, WV 26676

MINE NAME: BLUE BRANCH REFUSE AREA

QUADRANGLE: QUINWOOD

COUNTY: NICHOLAS

PERMIT NO. 0-10-83

DATE: 10/10/00

DISTRICT: KENTUCKY

SCALE 1"=200'

CONTOUR INT. 5'/40'

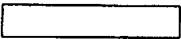




LATITUDE: 38°06'14" LONGITUDE: 80°41'22"

DRAWN BY: staff

REV. DATE: 06/23/2003

RECEIVING STREAM: HOMINY CREEK OF GAULEY RIVER OF KANAWHA RIVER

ACREAGE SUMMARY

		BONDED AREA (NOT TO BE DISTURBED)	0.23
	PREVIOUSLY BONDED AREAS	176.29	
	IBR #9: ADDED AREA	79.78	
	IBR #9: DELETED AREA	4.71	
	TOTAL AREA BONDED	251.36	
		TOTAL SURFACE PERMIT AREA	251.36
		DRAINAGE AREA (INCLUDED IN DISTURBED)	
		REGRADED AREA	12.46
		DISTURBED AREA	238.67

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SUMMIT ENGINEERING, INC.

WESTMORELAND PLACE
400 ALLEN DRIVE SUITE 100
CHARLESTON, WV 25302

PIKEVILLE, KY

LEXINGTON, KY

GRUNDY, VA

LOGAN, WV

HAZARD, KY

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS MAP IS CORRECT AND SHOWS ALL THE INFORMATION TO THE BEST OF MY KNOWLEDGE AND BELIEF REQUIRED BY THE SURFACE MINING LAWS OF THIS STATE.

SIGNATURE

REGISTRATION NO.

DATE

ACKNOWLEDGED BEFORE ME A NOTARY PUBLIC,
THIS _____ DAY OF _____, MY COMMISSION

PROJECT NO.

6806810

SCALE

1" = 200'

SHEET NO.



CBC ENGINEERS
CHARLESTON, WV

1

LEGEND

PROPERTY LINE	—P/L—	EXISTING ROADS	
PROPERTY OWNERSHIP IDENTITY		ROADWAY CULVERT W/SUMP	
STRUCTURE		ROADWAY CULVERT	
PERMANENT MONUMENT		SEDIMENT PONDS	
PERIMETER MARKER		SEDIMENT CHANNEL	
TOPSOIL STORAGE AREA			
WELLS	WATER (W) GAS (G) OIL (O)		
PIPELINES	—W—G—O—		
PORTAL		SEDIMENT STRUCTURE TO BE DELETED	
FUEL STORAGE AREA	(F)	FLUME/CONVEYANCE CHANNEL	
EXISTING ROADS	— — —	COMPONENT DRAINAGE AREA	
DIVERSION DITCH		FLOW DIRECTION/ EDGE DITCH	
EXPLOSIVE STORAGE AREA	(E)	SEWELL SEAM OUTCROP	
SURFACE RUNOFF FLOW DIRECTION		ADJACENT PERMIT AREA	
NPDES OUTLET MONITORING SITE TO BE DELETED		ARTICLE 11 NPDES INSTREAM MONITORING SITE	<i>DRC</i>
NPDES OUTLET MONITORING SITE		GROUNDWATER MONITORING WELL	<i>MW-1</i>
PROPOSED REFUSE DISPOSAL		UNDERGROUND MINE DISCHARGE OR SEEPAGE POINT	<i>10</i>
		STREAM BUFFER ZONE	
		(No Refuse Placement Allowed)	

FILENAME: 0-10-83_IBR9_P&D_MAP

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CBC-6810

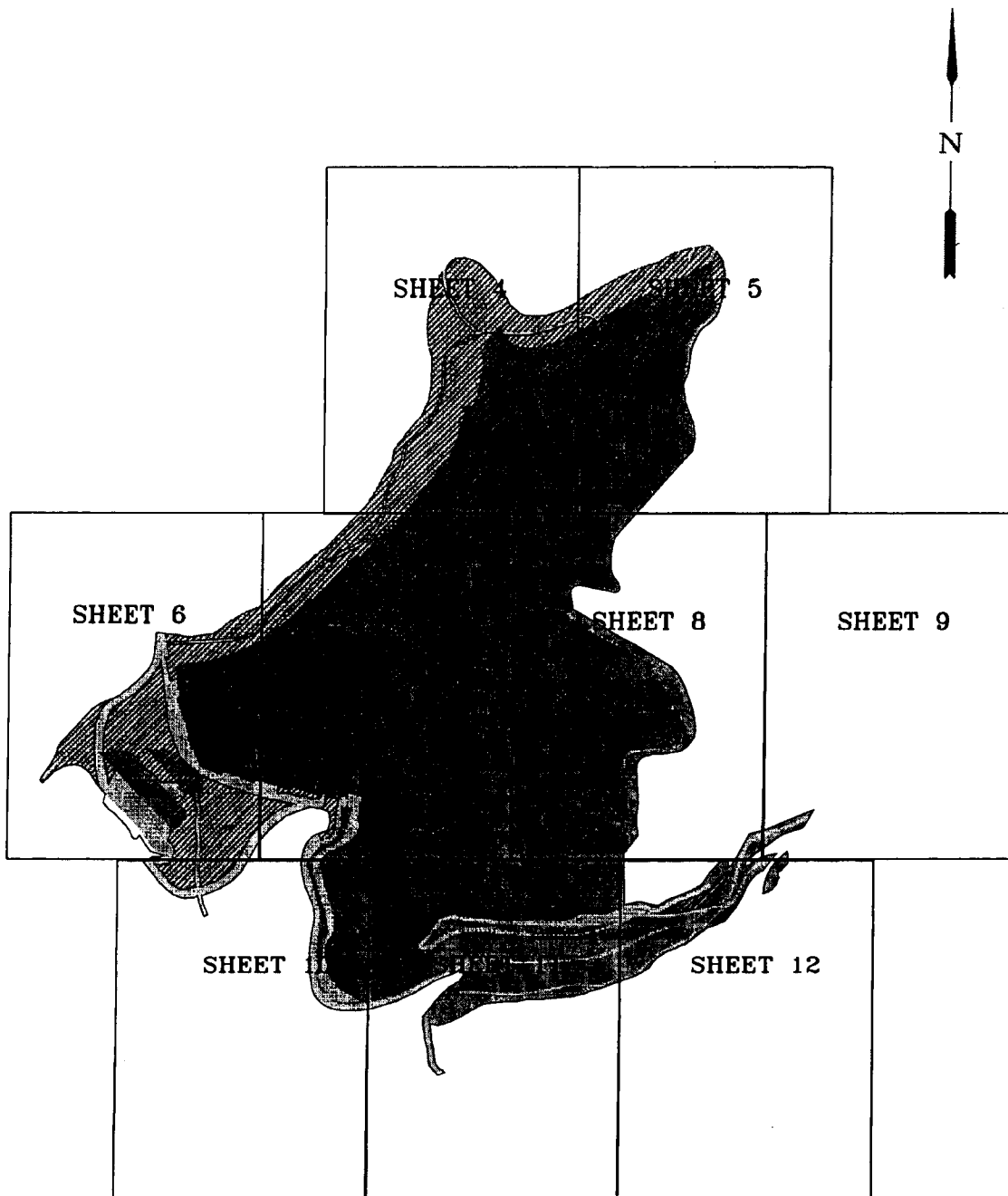
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CBC ENGINEERS
CHARLESTON, WV

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PROJECT NO.
CBC-6810

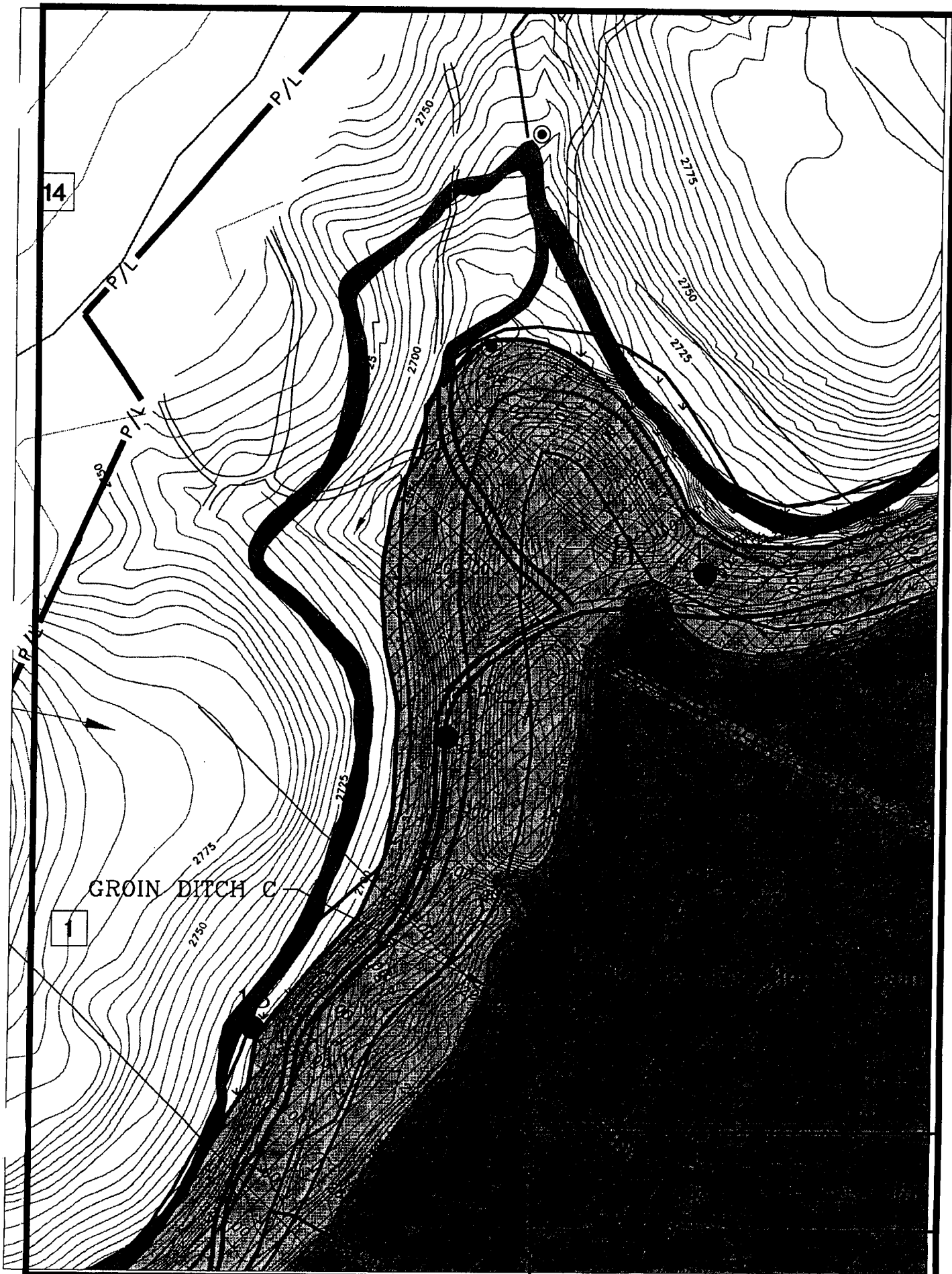
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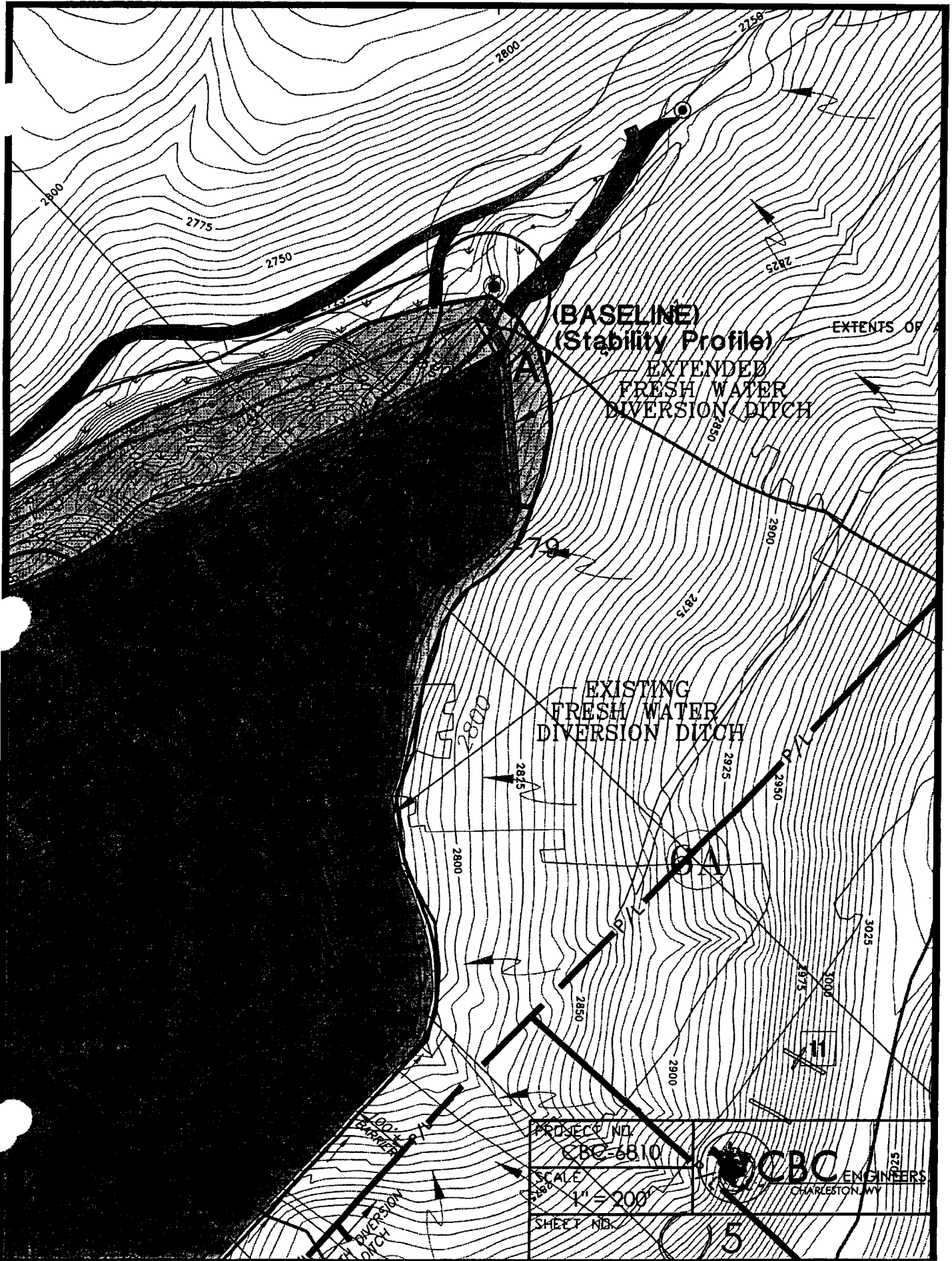
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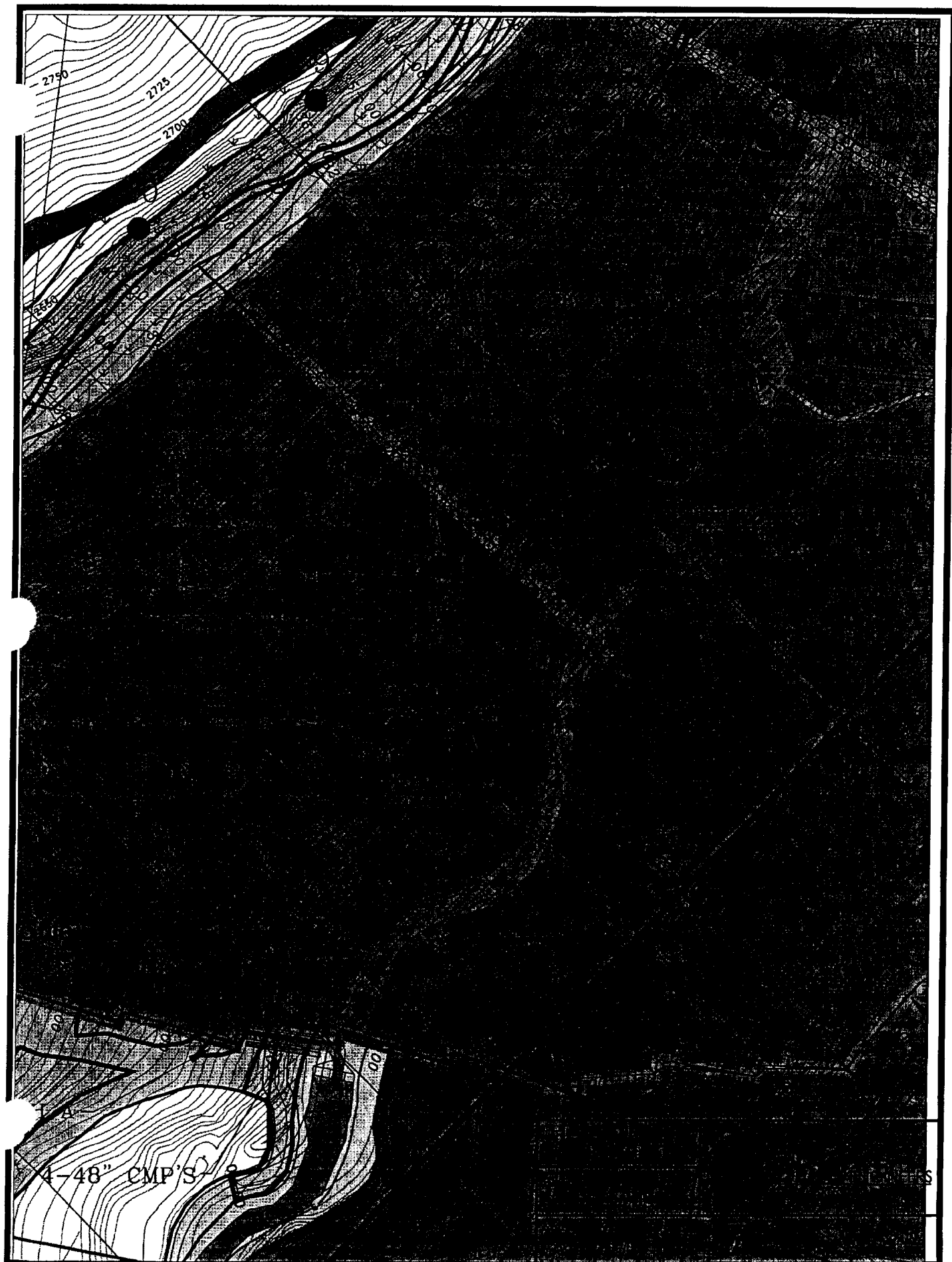
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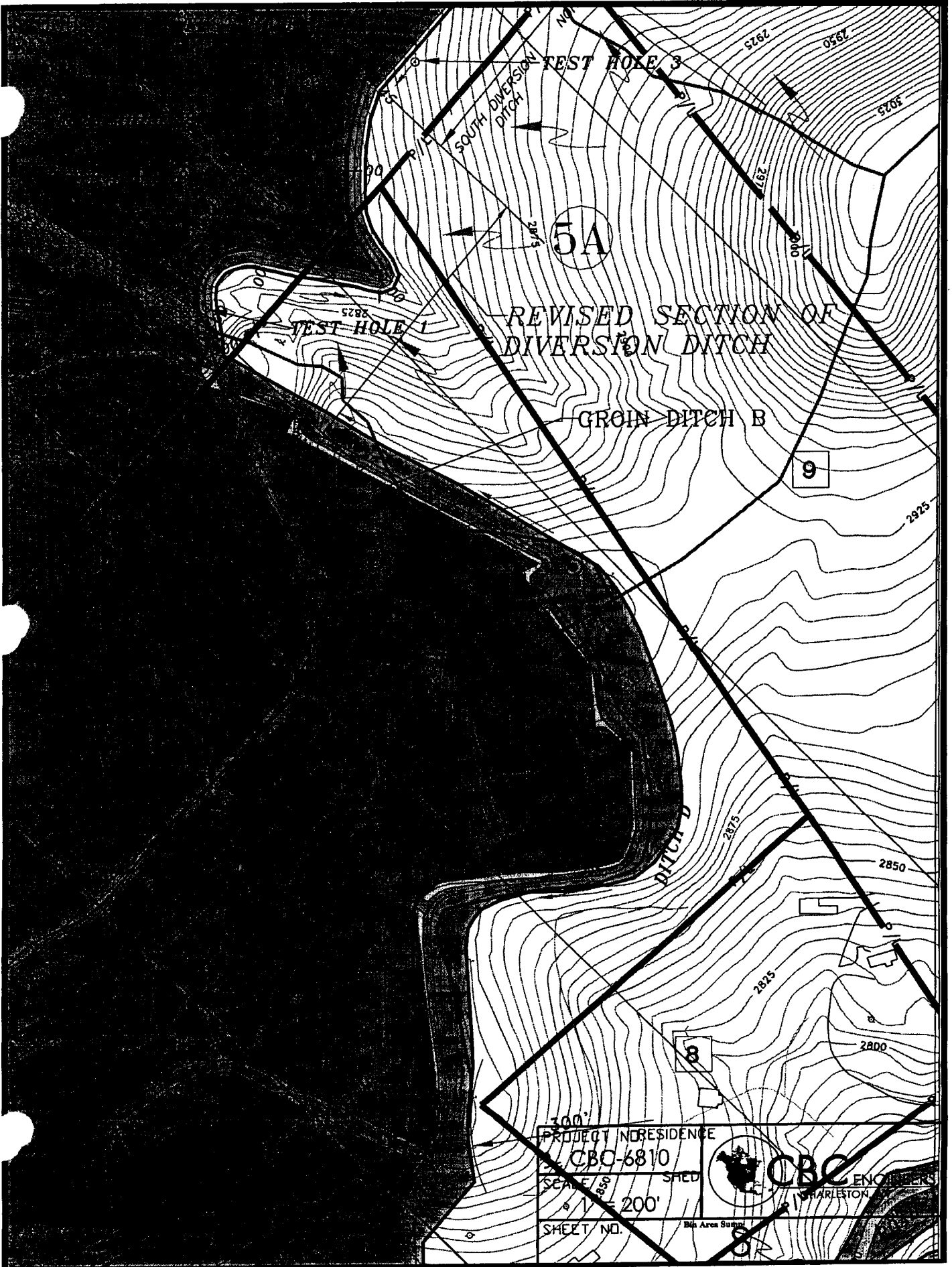
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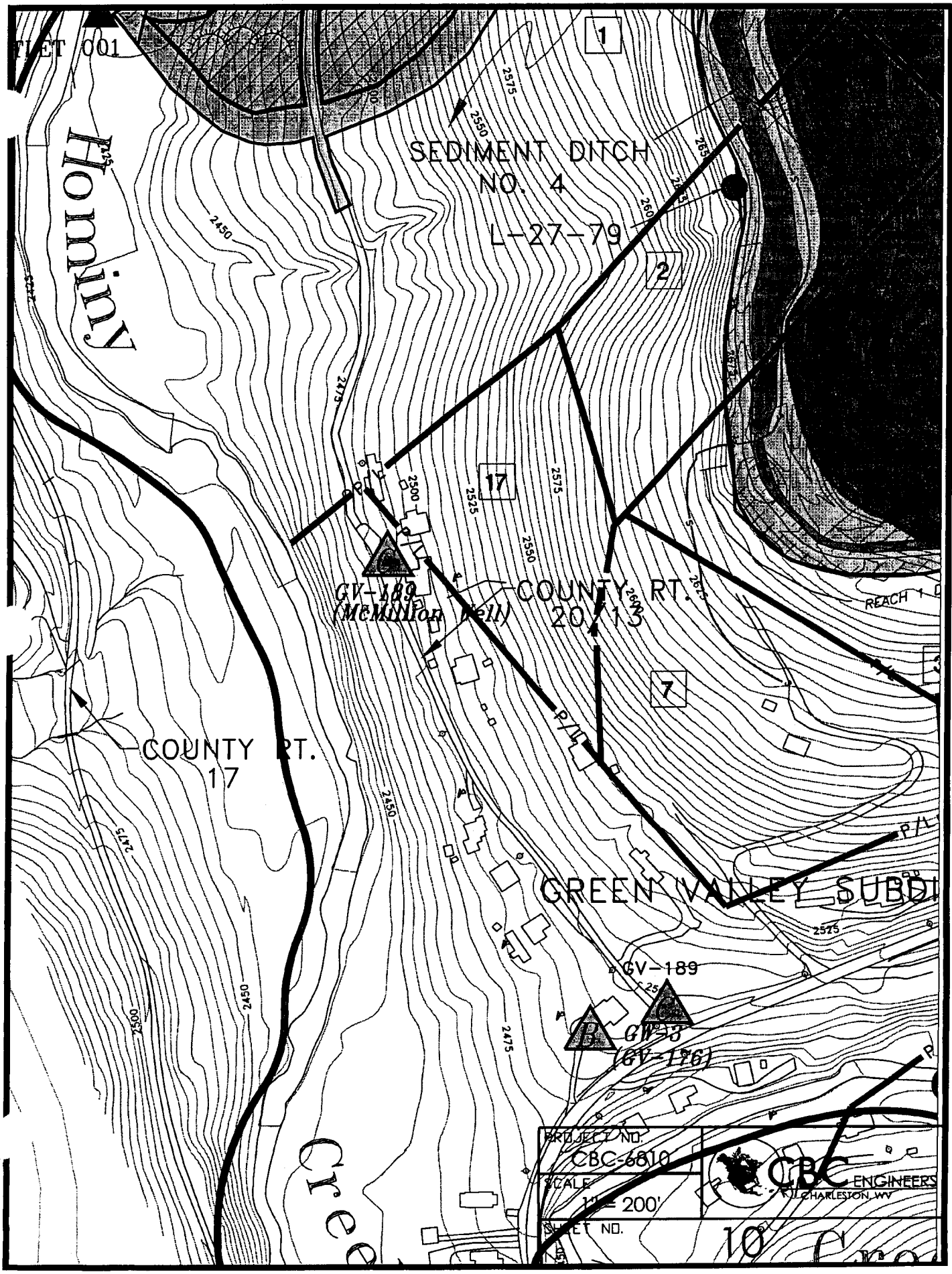






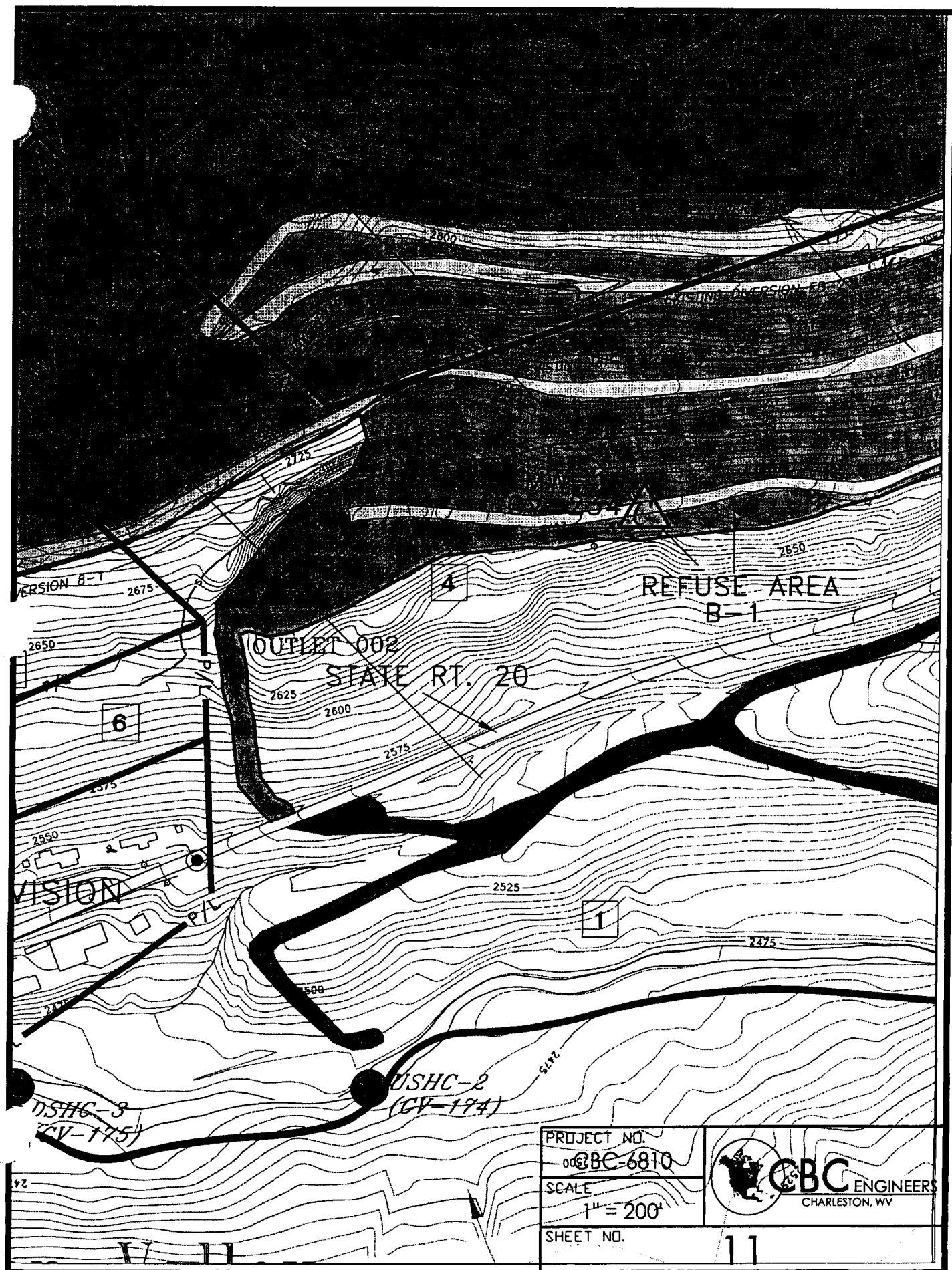


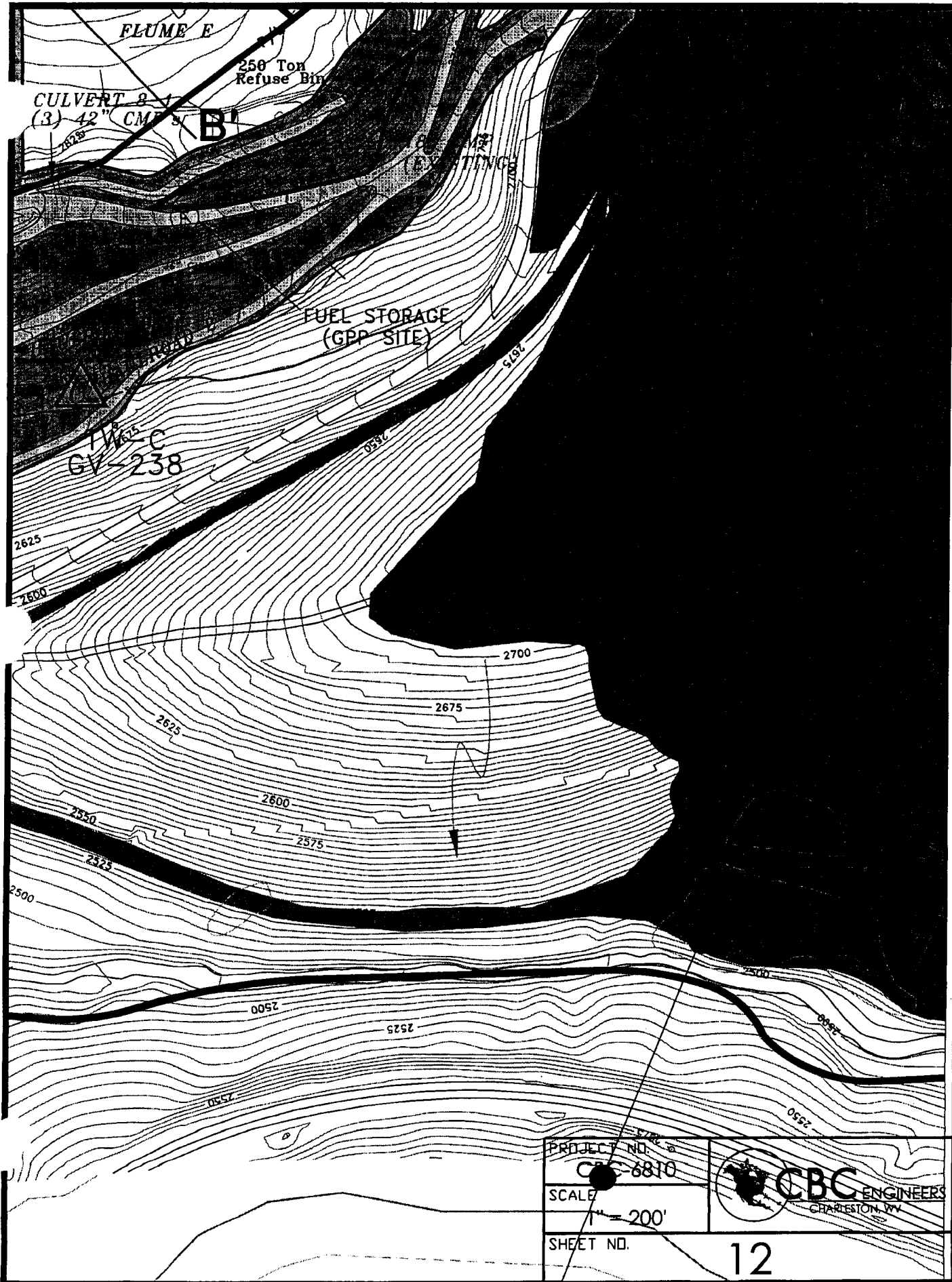
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SCALE	1" = 200'
SHEET NO.	12

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